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NXP INTELLECTUAL PROPERTY DEPARTMENT
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In re Application of DEN OUDEN
U.S. Application No.: 10/561,398
PCT Application No.: PCT/IB2004/050054
Int. Filing Date: 27 January 2004
Priority Date Claimed: 29 January 2003
Attorney Docket No.: NL03 0102 US
For: DATA COMMUNICATION USING
CONSTANT TOTAL CURRENT

DECISION

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 17 April 2008.

BACKGROUND

On 27 January 2004, applicant filed international application PCT/IB2004/050054, which claimed priority of an earlier European Patent Office application filed 29 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired on 29 July 2005.

On 19 December 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a grantable petition under 37 CFR 1.137(b).

On 24 January 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 25 March 2007, international application PCT/IB2004/050054 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 17 April 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 January 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 April 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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